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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,386	02/28/2001	Johannes Manten	108518	4023
25944	7590	03/01/2004	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			SINGH, ARTI R	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/762,386

Applicant(s)

MANTEN, JOHANNES

Examiner

Ms. Arti Singh

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Appeal Brief filed on 11/26/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 05/23/01.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. The Examiner has carefully considered Applicant's remarks and accompanying remarks filed in the Appeal Brief dated 11/26/2003. Upon further consideration prosecution has been reopened in this Application. The finality of the previously made rejection over claims 1-3 and 5-7 under 35 USC § 102 (e) to USPN 6,103,371 issued to Prickett et al. has been withdrawn and a new rejection has been set forth below making all arguments moot at this time.

2. In view of the Applicant's rebuttal filed on 11/26/2003, PROSECUTION IS HEREBY REOPENED. A non-final action is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 05/23/2001 has been considered by the examiner.

With regard to Applicant's demand that the two German references have not been acknowledged from the first IDS that was sent in; to this the Examiner contends that it is now made of record that the two references are acknowledged to the point that Applicant has sought to describe these references, namely DE 29713824 U1 on page 1, lines 9 & 10 of the

Art Unit: 1771

instant specification as, " In DE 29713824 a protective glove has been described the lining of which comprises flexible aramid fiber." And secondly, Applicant states that DE 4423194 A1 was cited in the search report of a counterpart foreign application, further indicated as an X reference, the Examiner still has no idea what this reference teaches nor has been any explanation that the Examiner could rely on of the other German reference. The Examiner was unable to get a hold of Applicant's cited references thus did not sign and remit the previous IDS's mainly because the Examiner did not know exactly what the references were trying to teach, and furthermore, as it was cited as an X reference in the counter application the Examiner would definitely have given the unknown reference considerable weight when making an informed decision. Prior to the interview on one of the many conversations had with Applicant's counsel, Ms. Saltiel, she asked why the two references were crossed in the remitted IDS and I explained that all I had was one sentence for one reference and nothing but a citation for other. However for the record the IDS is being remitted signed as demanded by Applicant's counsel because they feel that a one line sentence is enough to describe the first German reference and that a search report indicating an "X" reference without point out anything other than being an X reference is enough then, the Examiner goes on record as having reviewed the two German references as stated above.

Response to Arguments

4. Applicant's arguments, see Appeal Brief, filed 11/26/2003, with respect to the rejection(s) of claim(s) 1-3 and 5-7 in the previous office action have been fully considered and are persuasive. Therefore, the rejection has been withdrawn because Applicant's counsel has pointed out that the denial of the Prickett reference is not the same as Applicant's. However, upon further consideration, a new ground(s) of rejection is made in

Art Unit: 1771

view of USPN 5,882,791 issued to van der Werff et al. in view of USPN 5,578,358 issued to Foy et al.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable USPN 5,882,791 issued to van der Werff et al. in view of USPN 5,578,358 issued to Foy et al.

7. The teachings of van der Werff et al. disclose a p-aramid microfilament yarns used in the manufacture of antiballistic articles and a process for manufacturing the same (abstract). In their broadest interpretation van der Werff disclose para-aromatic polyamide filament yarns having a linear yarn density of 300 dtex. The yarn comprises a bundle of filaments with a linear density of less than 0.8 dtex, which meets Applicant's claimed range in claim 1, line 2 " of being less than 1.3 dtex. It should be noted that a skilled artisan is aware that numerous filaments or filament bundles make up a single strand of yarn or fiber. (column 2, lines 42-57). Patentee further states in lines 61-62 of the same column that the yarns of their invention are referred to as microfilament yarns. In column 3, line 34 onwards patentee expresses that the filaments of yarn are endless filaments made by a spinning process very similar to that of Applicant and thus the limitation of claim 6 is also met. In Example 3, line 62 the test filament yarn is 30 mm in length, thereby meeting Applicants limitations of length, which falls under the definition of a staple fiber also. It should also be noted that in the Description of the Prior Art in column 1, Patentee discloses that para-aromatic polyamide

Art Unit: 1771

filament yarns were known as shown in EP 609 946 to van der Pol which further disclosed p-aramid yarn where the filaments had a linear density of 0.8 to 1.3 dtex, which meets Applicant's claimed range of 1.3 dtex or less. Therefore van der Werff et al teach the use of aromatic polyamide microfilaments having a titer of less than or equal to 1.3 dtex; the microfilaments are para-aramids, staple length of 30 mm and are in the form of endless filament yarns. Van der Werff does not explicitly teach the use of the aromatic polyamide to be poly (para-phenylene terephthalate) that the article is formed into a glove and is cut resistant.

Foy et al. teach aramid articles having improved resistance to the penetration by sharp elements (cut resistance) and are woven with low denier yarns (abstract). In column 2, line 49 Foy et al employ the use of PPD-T yarns. A skilled artisan would have found it obvious to have employed the specific PPD-T yarn of Foy et al as the microfilamentous yarn of van der Werff motivated by the reasoned expectation of employing a readily available yarn and further substituting one well known product for an equivalent is well within the purview of a skilled artisan.

With regard to the limitation of claim 7, that is formulating the article into a glove, the Examiner takes the position that cut resistant yarns are primarily used to formulate gloves that are worn by butchers, hence it would have been obvious to a person of ordinary skill in the art to have formulated a glove out of the cut resistant yarns. One would have been motivated to do so to protect the hands of one using them so that they don't get stabbed by the use of sharp utensils.

Conclusion

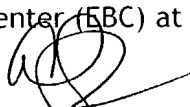
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USPN 5,882,791.

Art Unit: 1771

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Arti Singh whose telephone number is 571-272-1483. The examiner can normally be reached on M-F 9-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ms. Arti Singh
Primary Examiner
Art Unit 1771

Ars
2/20/04